

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
JONESBORO DIVISION**

CORNELIUS BENNETT, ET AL.

Plaintiffs

VS.

NUCOR CORPORATION, ET AL.

Defendants

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NO. 3:04CV00291 SWW

ORDER

Defendants Nucor Corporation and Nucor-Yamato Steel Company (“Nucor”) filed a motion to consolidate this case with *Rogers v. Nucor*, 4:05CV00933 GH (docket entry #53). Plaintiff Sylvester Rogers (“Rogers”) opposes consolidation. *See Rogers v. Nucor*, 4:05CV00933 GH, docket entry #14. After careful consideration, the motion to consolidate will be denied.

Rogers is one of seven plaintiffs who commenced this case, a putative class action, claiming that Nucor discriminated against the plaintiffs by, among other things, preventing them from competing for promotions and subjecting them to a racially hostile work environment. On June 28, 2005, Rogers initiated a separate lawsuit, *Rogers v. Nucor*, 4:05CV00933 GH, claiming that Nucor retaliated against him for his participation in this case, in violation of Title VII of the 1964 Civil Rights Act, as amended by the Civil Rights Act of 1991, and 42 U.S.C. § 1981. Nucor asserts that consolidating this case with case number 4:05CV00933 GH would result in a

significant savings of judicial resources.

Rogers' individual retaliation claim involves allegations that are separate from the discrimination claims asserted in this case. To prevail with his discrimination claims, Rogers need not prove that he suffered adverse employment action because he complained about race discrimination; and to prevail with his retaliation claim, he need not prove that race discrimination actually occurred.

Because the critical questions of law and fact in this case are distinct from those presented in case number 4:05CV00933 GH, the Court concludes that consolidation would not result in conservation of judicial resources and would hinder, rather than promote, progress in both cases.

IT IS THEREFORE ORDERED that Defendants' motion to consolidate (docket entry #53) is DENIED.

IT IS SO ORDERED THIS 16TH DAY OF SEPTEMBER, 2005.

/s/Susan Webber Wright

UNITED STATES DISTRICT JUDGE